

REMARKS

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. All claims stand finally rejected. In response, Applicants file herewith a Request for Continued Examination and this Amendment. The Office is respectfully requested to reconsider the rejections present in the outstanding Office Action in light of the foregoing amendments and the following remarks.

It should be noted Applicants are not conceding in this application the claims amended herein are not patentable for the reasons cited by the Examiner in the outstanding Office Action, as the present claim amendments are only for facilitating expeditious prosecution. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications. Applicants specifically state no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claim Objections

Claim 39 stands objected to because of an informality. Applicants have amended the dependency of claim 39.

Claim Rejections under 35 USC §112

Claim 35 stands rejected under § 112, second paragraph, as being indefinite and for lacking sufficient antecedent basis for a claimed term. Applicants have amended claim 35 and respectfully request reconsideration and withdrawal of these rejections.

Rejections under 35 USC § 102

Claims 21-23 stand rejected under 35 USC § 102 as being anticipated by Martin (U.S. Patent No. 6,338,066, hereinafter “Martin” (misabeled in the Office Action as U.S. Patent Application Pub. No. 2001/0014868). Applicants respectfully disagree and request reconsideration and withdrawal of these rejections.

As the Examiner is no doubt aware, “...unless a reference discloses within the four corners of the document not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claim, it cannot be said to provide prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. § 102.” *Net MoneyIN Inc. v. VeriSign Inc.*, 545 F.3d 1359 (Fed. Cir. 2008).

Applicants respectfully submit that at the very least Martin does not teach or suggest “...wherein the predicting that a buyer/seller relationship is degrading comprises determining if a customer *currently at the web marketing site* is likely to leave the web marketing site before being served...” Claim 21 (as amended) (emphasis added). Support for the amendment can be found throughout the specification, particularly at [0115]-[0116]. Accordingly, Applicants request reconsideration and withdrawal of these rejections.

Claims 37 and 39 stand rejected under § 102 as being anticipated by Herz et al. (U.S. Patent Application Pub. No. 2001/0014868, hereinafter “Herz”). Applicants respectfully disagree and request reconsideration and withdrawal of these rejections.

Applicants respectfully submit that Herz at the very least fails to teach or suggest "...a promotion *dynamically optimized utilizing continuous real-time modeling*." (claims 37, 39 (emphasis added)). Accordingly, Applicants request reconsideration and withdrawal of these rejections.

Rejections under 35 U.S.C. § 103(a)

Claims 25-33 stand rejected under § 103 as being unpatentable over Martin in view of Dahm et al. (U.S. Patent No. 6,301,471, hereinafter Dahm). Claim 40 stands rejected under 35 USC § 103(a) as obvious over Herz. Applicants respectfully disagree and request reconsideration and withdrawal of this rejection.

Applicants respectfully submit that the combination of references fails to teach or suggest the limitations of the independent claims. Moreover, the combination of references fail to overcome the deficiencies of Martin and Herz, as briefly outlined above. Applicants therefore respectfully request reconsideration and withdrawal of this rejection.

Request for Interview

Applicants are again submitting an Interview Request Form herewith.

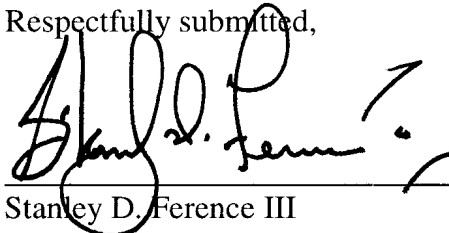
Applicants wish to remind the Examiner that an Interview Request Form was submitted with the June 2009 response to the non-final Office Action. It appears, however, the Interview Request Form was not acted upon by the Examiner. Regrettably, the Examiner has refused to grant an interview since the issuance of the final Office Action. Applicants

respectfully submit an interview is proper and appropriate prior to the issuance of any further Office Action.

Conclusion

In summary, it is respectfully submitted that the instant application is presently in condition for allowance. Notice to the effect is hereby earnestly solicited. Applicants' undersigned attorney would welcome further discussion with the Office in the event there are any further issues in this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stanley D. Ference III", is written over a horizontal line.

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